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2025 OCT 28 AM 10:14
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IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT PART IV

KEVIN BURNS ET AL.,
Plaintiffs,

vs. NO. 25-0414-IV

FRANK STRADA, ET AL.,
Defendants.

~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

DEPOSITION OF

DR. [redacted]

PHYSICIAN A

October 27, 2025
12:53 p.m. (ET)

Holiday Inn Express Union City
810 Bream Boulevard
Union City, Tennessee 38261

Chloe Fry, 1088

Courtesy of Time of Death Podcast by Beth Braden
~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

[redacted]

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[redacted]

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[redacted]

DEPOSITION OF DR. [redacted]

October 27, 2025

DR. [redacted] having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRAZER:

Q. Good afternoon, Dr. [redacted] My name is Drew Brazer.

A. Good afternoon.

Q. I'm one of the employees with the Federal Public Defender's Office, representing the plaintiffs in the case of Burns v. Strada.

A. Okay.

Q. Thank you for coming here today. We appreciate your time.

A. Yes, sir.

Q. Our goal is to learn more about your role with respect to Tennessee's execution process.

A. Yes.

MR. WICKENHEISER: And I'm very sorry, just before we get started, I wanted to put on the record that we had agreed to stipulate -- or to reserve all objections except for objections to form.

MR. BRAZER: Yep. Thank you, David.

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[redacted]

BY MR. BRAZER:

Q. Dr. [redacted] are you represented by an attorney today?

A. I'm represented by the gentleman to my right.

Q. Okay. And are you an employee of the Tennessee Department of Corrections?

A. Yes.

Q. You are?

A. In a limited sense, yes.

Q. Okay. Could you tell me more about that role? Or roles?

A. I do contract work for them and attend executions.

Q. Okay. Are you also an employee of Centurion?

A. Not at this time.

Q. Okay. Dr. [redacted] have you ever sat for a deposition before?

A. Yes.

Q. How many?

A. Ten, 15.

Q. Ten, 15? Okay. Were you deposed as a fact witness or an expert witness?

A. Both.

Q. Both. Have you ever taken a deposition before as an attorney?

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[redacted]

A. Yes.

Q. Okay. How many?

A. A handful.

Q. Okay. Well, it sounds like you're an old hand at this, but, you know, please remember to answer orally, speak up, so that the court reporter can accurately record your answer. We'll be relying, obviously, on what you say orally for the purposes of the case. If for whatever reason you don't understand my question, please feel free to let me know, and I'll either repeat it or rephrase it. If you need to take a break at any time, just let us know. Bathrooms are through that door, and there is tea and coffee outside, as well as water. As you know, your counsel may object to a question, but unless they specifically instruct you not to answer it, please do so. And I will do my best to avoid asking any questions that would call for an instruction not to answer.

A. Sure.

Q. Sound good?

A. Yes, sir.

Q. Okay. And let's get started. Without revealing anything about the contents of conversations you might have had with your lawyers, did you do anything to prepare for today's deposition?

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[redacted]

A. No, sir.

Q. No. Okay. Who did you -- well, let me say, are you taking any medications or drugs of any kind which might affect your ability to understand or answer my questions?

A. No, sir.

Q. Okay. Have you had anything alcoholic to drink in the last eight hours?

A. No, sir.

Q. Okay. Are you sick at all today?

A. Nope.

Q. Is there any other reason you can think of that you wouldn't be able to understand and answer my questions?

A. Nope.

Q. Okay. Wonderful. You're here pursuant to a subpoena; is that correct?

A. Yes.

Q. Okay.

MR. BRAZER: May I have a copy of the subpoena, please?

THE REPORTER: Is that his copy?

MR. BRAZER: Yes.

THE REPORTER: Okay.

BY MR. BRAZER:

Courtesy of Time of Death Podcast by Beth Brazer

[redacted]

Q. Dr. [redacted] is this that subpoena?
A. It appears to be.
Q. Okay. And you'll see on the last page, I believe, that there -- it includes a request to bring documents; is that correct?
A. Yes, it does.
Q. Okay. Did you bring any documents with you to today's deposition?
A. No.
Q. Are you withholding any documents that you think are responsive to that subpoena?
A. No.
Q. Okay. You were served by that subpoena by an investigator in our office; is that correct?
MS. KINGSBURY: Do you want me to get one of these to the court reporter?
MR. BRAZER: Yes. Thank you. And my apologies. We'll enter this as Exhibit 1. Thank you.
(Exhibit 1 was marked for identification.)
BY MR. BRAZER:
Q. You were served that subpoena by an investigator in our office, correct?
A. I don't know who he was.
Q. Okay. Was your interaction with him okay?

Courtesy of Time of Death Podcast by Beth Braden

[redacted]

A. Yeah.

Q. Okay. Great. And I -- as an -- as I understand it, you called Ms. Henry after receiving the subpoena; is that correct?

A. Yes.

Q. Okay. And that conversation was with regard to changing the date of this deposition; is that correct?

A. Yes.

Q. Okay. Did you discuss anything substantive with Ms. Henry about this case during that phone call?

A. No.

Q. Okay. Dr. [redacted] do you know what this case Burns v. Strada is about?

A. Not -- I don't know the legal specifics. I -- I am familiar with Mr. Burns' situation.

Q. Okay. And by that, what do you mean?

A. Well, I read Sonia Sotomayor's dissenting opinion about one of his federal collateral attacks on the state judgment.

Q. Okay. Are you aware that this case concerns a lawsuit challenging Tennessee's 2025 lethal injection protocol?

A. No.

Q. Okay. Have you read any of the filings in

Courtesy of Tale of Death Podcast by Beth Braden

[redacted]

this case?

A. In which case?

Q. In Burns v. Strada?

A. No, sir.

Q. Okay. Have you heard about or read about the case on the news?

A. I read some newspaper accounts. One or two.

Q. Okay. Great. So we found a copy of your CV from prior litigation you were deposed in. That case was Good v. South Haven out of the Northern District of Mississippi.

A. Yes.

Q. Is it okay if I show you a copy of that CV?

A. Sure.

Q. All right. Now, Dr. [redacted] I understand this CV might be out of date. I believe it's from around 2017. Can you verify whether or not this is indeed your CV from that era?

A. Well, I can't pin down the dates.

Q. Sure.

A. But it appears to be my CV.

Q. Okay. Do you have a more up-to-date copy of your CV?

A. I do not.

MR. BRAZER: Okay.

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[redacted]

THE REPORTER: Do you want to enter this?

MR. BRAZER: Yes. We're going to introduce this as Exhibit number 2. All right. Here you are.

(Exhibit 2 was marked for identification.)

BY MR. BRAZER:

Q. Now, this says you went to medical school at the University of Tennessee; is that correct?

A. Yes.

Q. Okay. And you graduated in 1999; is that correct?

A. Yes.

Q. Okay. And you did your residency at the UT Department of Family Medicine; is that correct?

A. Yes.

Q. Okay. Did you do any medical fellowships?

A. No.

Q. Okay. It seems to me, based on this resume, that you've been practicing medicine for about 25 years; is that correct?

A. I graduated from residency in 2001.

Q. Okay.

A. So technically, 24 years.

Q. Okay. Where do you currently practice?

A. I have -- I'm a medical supervisor for a number of -- of nurse practitioner clinics in West and

Courtesy of Line of Death Podcast by Beth Brazen

[redacted]

Middle Tennessee.

Q. Okay. But you don't currently -- do you see patients?

A. Yes.

Q. Okay. Are you affiliated with a hospital?

A. No.

Q. Okay. Are you board certified?

A. Yes.

Q. Which board?

A. American Board of Family Physicians.

Q. Okay.

A. It's technically American Board of Family Medicine.

Q. Okay. Do you -- I know you said you're not affiliated with a hospital. Do you have hospital privileges?

A. No.

Q. Okay. Memberships in any medical associations?

A. Tennessee Academy of Family Physicians, American Academy of Family Physicians.

Q. Okay. In addition to your practice as a family medicine doctor, I see that you worked as an emergency room physician --

A. That's correct.

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[redacted]

Q. -- for part of your career? Okay. For how long was that?

A. Generally speaking, in one emergency room or another, from January 2001, to April 2013.

Q. And were those full-time positions?

A. Yes.

Q. Okay. I see also here -- on here that you worked at the Obion County Medical Examiner's Office from 2006 to 2009; is that correct?

A. Yes.

Q. Okay. What did you do for the Medical Examiner's Office?

A. The sheriff's department and the police department would call me and I would go out and examine bodies found deceased, and make a decision about whether or not an autopsy was indicated.

Q. Okay. Okay. Finally, I see, as you mentioned earlier, that you hold a number of medical director positions. On here, I see blood banks, medical clinics, a rehab facility, urgent care centers, a chiropractic center, a nursing home, hospice. If I quickly count, it looks like there are 12 different medical director positions on this resume. Are -- do you hold other medical director positions in addition to those listed here?

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[redacted]

A. Yes.
Q. Okay. Approximately how many?
A. Let's see. Three or four.
Q. Three or four in addition.
A. Yes.
Q. Okay. So roughly 15 or 16 in total?
A. No.
Q. Sorry, could you clarify, sir?
A. What would you like to know?
Q. How many medical director positions in total you hold?
A. Well, let's see. I'm no longer the medical director for Plasma Biological Services; I'm no longer the medical director for Interstate Blood Banks; I'm no longer the director of Regulatory Affairs for Interstate Blood Banks; I am only a part-time medical director for Advanced Rehab and Medical Clinic in Jackson; I am no longer the medical director in Urgent 45; no longer the medical director in Arlington Family Chiropractic; and no longer the medical director of Gallaway Nursing Home; no longer the medical director of Martin Healthcare; no longer the medical director of Avalon Hospice.

I am the medical director of four clinics in Memphis, which are urgent care clinics; one sleep clinic in Memphis; three weight loss clinics, one in Jackson,

Courtesy of Title of Death Podcast by Beth Breden

[redacted]

one in Dyersburg, one in Chattanooga; a walk-in clinic in Dyersburg; an aesthetics clinic in Martin, Tennessee; an aesthetics clinic in Union City, Tennessee; The Wound Care Clinic in Union City, Tennessee. And I think that's that -- that's it.

Q. Okay. Thank you.

A. Uh-huh.

Q. And what do you do as a director for all of these facilities?

A. I review medical records. I review the charts of patient visits.

Q. Okay. And are you on call for all of these entities?

A. Yes.

Q. Okay. I assume you're compensated for all of this work?

A. Yes.

Q. Okay. Do you derive the bulk of your income from your medical director positions?

A. Yes.

Q. Okay. Now I asked earlier that you're an employee of TDOC; is that correct?

A. No. As I said previously, I do contract work for them in connection with certifying the death of executed inmates.

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[redacted]

Q. Okay. Were you or are you currently a medical director for Northwest Correctional Facility?

A. No.

Q. No. Have you ever been a medical director for Northwest Correctional Facility?

A. Yes.

Q. You have. During what time period?

A. Probably 2020 to 2023, 2022, something like that.

Q. Are you a medical director for other correctional facilities?

A. No.

Q. Have you ever been a medical director for other correctional facilities?

A. No.

Q. Okay. And what did you do as a medical director for Northwest Correctional Facility?

A. Provide patient care to inmates.

Q. Okay. Okay. Dr. [redacted] now I'd like to ask you about your involvement in Tennessee's executions, if that's all right. Are you aware that you've been identified as a physician under the 2025 lethal injection protocol in Tennessee?

A. Yes.

Q. Okay. Do you know who identified you as a

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[redacted]

physician?

A. I do not.

Q. Okay. Are you aware that it was the defendants and the Davidson County Medical Examiner's Office that identified you?

MR. WICKENHEISER: Objection.

MR. BRAZER: On what grounds?

MR. WICKENHEISER: I'm objecting to the form.

MR. BRAZER: Form of the question?

MR. WICKENHEISER: Yeah.

MR. BRAZER: Okay. Can I have Mr. Byron Black's autopsy report, as well as Oscar Smith's autopsy report?

THE REPORTER: Do we want to enter these as separate exhibits?

MR. BRAZER: Yes.

THE REPORTER: Okay.

MR. BRAZER: I'll give this copy to you. And this to you as well. Dr. [redacted] I'm providing you a copy. I'm just highlighting the text for you, because otherwise it would be challenging to find. That is a copy of Mr. Smith's autopsy report. We are entering this as Exhibit 3. That is the autopsy report of Mr. Byron Black. We are entering this as Exhibit 4. This is the autopsy report of Mr. Oscar

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[redacted]

Smith.

(Exhibit 3 was marked for identification.)

(Exhibit 4 was marked for identification.)

THE REPORTER: Can I have Exhibit 3 back real quick? I think I did not mark the file. Thank you.

MR. BRAZER: Okay.

THE REPORTER: Sir, could you --

MR. WICKENHEISER: I'm sorry, Drew. What did you highlight?

MR. BRAZER: I highlighted on his copy, on Mr. Smith's report, because it's a multi-page document where it lists his name as the physician who declared death.

THE REPORTER: I don't think you have the Smith one.

MR. WICKENHEISER: Yeah. I don't believe I have the Smith one. If I could get them. Okay.

MR. BRAZER: Can I have copy as well, please? And of Mr. Black's as well? All right.

BY MR. BRAZER:

Q. Starting with Mr. Black's autopsy report, Dr. [redacted] in the narrative summary, do you see that section?

A. Yes, I do.

Q. Okay. So we're going to go to the second

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[redacted]

sentence. Do you mind if I read it to you?

A. Go ahead.

Q. "This investigator DOI Kelly Nicholson and Middle Tennessee Removal Service personnel responded to RMSI where death was later pronounced at 10:43 hours by Dr. Mark [redacted] Are you that Dr. Mark [redacted]

A. Yes.

Q. Okay. Now we're going to turn to Mr. Smith's autopsy report. Sorry, we are on Page 4. I have marked this for you as it's a bit harder to find. We're looking at the case summary section at the bottom. All right? And do you see the third sentence? "Dr. Mark [redacted] officially pronounced death on May 22, 2025, at 10:47 hours." Are you that Dr. [redacted]

A. Yes.

Q. Okay, great. Okay. To your knowledge, were -- now let me back up. Are you aware of the reporting that was done in the aftermath of Mr. Black's execution?

A. Please explain.

Q. Have you read any news reports about his execution?

A. Which reports are you referring to?

Q. The Nashville Banner, The Tennessean, any of these articles that they might have published?

A. Okay. So would you repeat your question one

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[redacted]

more time?

Q. Certainly. Have you read or seen any news reports in the aftermath of Mr. Black's execution?

A. Not that I recall.

Q. Okay.

A. Oh, wait. Not from The Nashville Banner.

Q. Okay. All right. All right. Dr. [redacted] to your knowledge, were Defendants supposed to keep your identity as a physician a secret?

MR. WICKENHEISER: Objection.

MR. BRAZER: On what grounds?

MR. WICKENHEISER: The form of the question.

MR. BRAZER: Can you explain?

MR. WICKENHEISER: I don't have to explain that.

MR. BRAZER: Okay.

MS. HENRY: He can go ahead and answer your objections, but --

MR. WICKENHEISER: Yeah --

MR. BRAZER: Yeah.

MR. WICKENHEISER: Sorry, I --

BY MR. BRAZER:

Q. I'm sorry, Dr. [redacted] let me repeat the early instruction. If David or -- I assume David is doing the objections today. If David objects, unless he instructs

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[redacted]

you not to answer, please do answer the question.

A. Would you repeat your question, please?

Q. Certainly. To your knowledge, were Defendants, the defendants in this case, supposed to keep your identity as the physician involved in the 2025 lethal injection protocol a secret?

A. Would you identify the defendants, please?

Q. Certainly. That would be Defendant Commissioner Frank Strada of the Tennessee Department of Corrections, and Warden Nelson. Otherwise, the Tennessee Department of Corrections.

MR. WICKENHEISER: And same objection, but you can answer.

THE WITNESS: Sure. Yes, I -- this -- my identity was supposed to be a secret.

BY MR. BRAZER:

Q. Okay. Did you instruct them that they could disclose your identity?

A. I did not.

Q. Did you instruct anyone that you could -- they could disclose your identity?

A. I did not.

Q. Okay. Now, have you since been -- have you been -- since Mr. Black's execution on August 5th, 2025, have you been harassed by any anti-death penalty

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[redacted]

supporters?

A. No, and I certainly hope your office will handle this responsibly --

Q. Of course.

A. -- and that I won't be reading about myself in The Nashville Banner or The Guardian.

Q. Understood, Dr. [redacted] Have you told anyone else that --

A. That was understood, that was not an acknowledgement in the grievance. So you're going to agree to that?

Q. Sir, this is a deposition.

A. I understand what it is.

Q. I'll be asking the questions.

A. Now, you asked me about confidentiality. I've seen some of the things that you all have said. I'm asking you -- of course I know the answer to this, this is supposed to be under seal. I have certainly trust that your staff will not be talking off record to newspapers.

Q. Sir, we have signed -- we are a party to a protective order in this case, which specifies the legal grounds by which we are supposed to keep information secret in this case.

A. Well, that's lawyer talk. Is it yes or no?

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[redacted]

Can you say yes or no?

MS. HENRY: Excuse me, can we go off the record for just a moment, so I can consult with my --

THE WITNESS: Yeah.

MS. HENRY: Okay.

THE REPORTER: Okay. We're off the record.

(Off the record.)

BY MR. BRAZER:

Q. Dr. [redacted] you mentioned a moment ago that -- or seemed to indicate that you thought this deposition was under seal. Are you aware that at a hearing on Friday, October 24th, Defendants filed our notice of deposition on the record with the Court?

A. I have no knowledge of who filed what.

Q. Okay. And when Plaintiffs brought that up to the Court, the fact that this deposition was not filed under seal, Defendants' Counsel stated that they were exercising their privilege to redact judiciously.

A. To redact judiciously?

Q. Yes.

A. Is that what you said?

Q. Yes. That's what Defendants' Counsel said.

A. Got it.

Q. Okay. So I -- are you aware that this deposition is not being conducted under seal?

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[redacted]

A. I am now.

Q. Okay. All right, Dr. [redacted] I'd like to proceed with the questions if that's okay.

A. Sure.

Q. Okay. I want to circle back to this one: Have you told anyone about your involvement in Tennessee's executions?

A. Yes.

MR. WICKENHEISER: I just want to object to the extent it might discuss attorney-client communication.

MR. BRAZER: Oh, I'm sorry. Yes.

BY MR. BRAZER:

Q. Absent -- you know, with the exception of you attorneys who, I assume, know your role, have you told anyone about your involvement in Tennessee's executions?

A. No.

Q. No. No family members?

A. Did I just say no?

Q. Okay. Understood, sir. Now you were the physician for the Byron Black and Oscar Smith executions, correct?

A. Yes.

Q. Okay. Have you participated in any other executions in Tennessee?

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[redacted]

A. Yes.
Q. Okay. Which ones?
A. I don't recall the name.
Q. You don't recall the name of the people being executed?
A. Did I just say that?
Q. Understood, sir. Have you participated in executions in other states?
A. No.
Q. Okay. Do you or have you played any other role in relation to Tennessee's executions -- execution process aside from the physician?
A. No.
Q. How is it that came -- you came to be involved in Tennessee's execution process?
A. I had a physician friend who shall remain -- remain nameless, who asked me to accompany him to an execution so that I might take over when he retired.
Q. Okay. Was that execution in Tennessee?
A. Yes.
Q. Okay. Were you involved in executions under the prior 2018 protocol?
A. I think the execution was in 2018 --
Q. Okay.
A. -- but I cannot answer what protocol.

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[redacted]

Q. Okay. Are you compensated for your participation?

A. Yes.

(CERTIFIED QUESTION)

Q. Can I ask how much?

A. No.

MR. BRAZER: On what grounds is he asserting not to answer that question?

THE WITNESS: Generally speaking, this was -- my name was supposed to be kept private, okay? And now we're getting into all manner of compensation, and this, and that, and the other. And frankly, I don't wish to read about myself in the newspaper saying, this blood thirsty coward doctor gets money for doing this. I get paid for the time and effort of going.

MR. WICKENHEISER: The witness has given his answer.

MR. BRAZER: Okay. All right. We'll move forward, Dr. [redacted]

MS. HENRY: Mr. Brazer, would you like to certify that question?

MR. BRAZER: We will certify it for the Court.

BY MR. BRAZER:

Q. Now have you read Tennessee's 2025 lethal

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[redacted]

injection protocol?

A. Yes.

Q. Okay. Can you tell me what you believe your role to be under that protocol as the physician?

A. Certify the death of the inmate.

Q. Okay. Anything else?

A. That's it.

MR. BRAZER: Okay. Could I have a copy of the 2025 protocol, please? And we have a copy for the reporter as well, please. Dr. [redacted] I'm directing you to Page 8 of the 2025 Lethal Injection Protocol. And we are marking this as Exhibit 5.

(Exhibit 5 was marked for identification.)

BY MR. BRAZER:

Q. Thank you. All right. Dr. [redacted] would you mind reading the paragraph under the word physician on Page 8?

A. "The physician is responsible for determining that the inmate is deceased using acceptable -- acceptable medical standards and establishing central IV access if necessary."

Q. Okay. Is your understanding from reading that paragraph, in addition to determining death, you would be responsible for establishing a central IV line if the IV team is unable to establish a peripheral IV line?

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[redacted]

A. Yes.
Q. Okay. Were you aware of that?
A. Yes.
Q. Okay. Where would you normally establish a central IV line?
A. Subclavian vein.
Q. Subclavian vein. All right. Are there other veins in which you would consider to establish the central IV line?
A. Not myself.
Q. Not yourself. But would other practitioners?
A. Possibly.
Q. Okay. What is the standard practice for establishing a central IV line?
A. Which one are you referring to?
Q. For a subclavian vein.
A. For a subclavian vein you prepare the patient with antiseptic, you open the kit and check the inventory of the kit to make sure everything is there. Once you've established that you have the complete and correct kit and the kit is sterile, you identify the appropriate location under the clavicle. You anesthetize that with lidocaine, you introduce a syringe with a trocar on it.
When you have entered the vein, you draw back

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[redacted]

to ensure that you're in the right spot and not through and through. You remove the syringe, you introduce a wire guide. You remove the first needle, you expand the opening, you introduce a triple lumen catheter. You check for its patency and you check that it's working. Then you sew the triple lumen catheter to the patient. At that point, you can access the patient's vasculature.

Q. Okay. You mentioned locating the vein. How is that done?

A. Generally speaking, the anatomy in this area is pretty standard, the subclavian vein is fairly wide. So you use an approach aiming toward the middle of the throat and gradually upward. It's a little bit hard to describe, but that's basically how you do it.

Q. Okay. In a hospital setting, would an ultrasound typically be used to locate the subclavian vein?

A. I never needed an ultrasound, but I suppose some people do that.

Q. Okay. And I imagine that's because other techniques, like I believe you were describing the landmark method?

A. Uh-huh.

Q. Okay. Involve a greater risk of hitting the wrong spot, not necessarily getting on target.

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[redacted]

MR. WICKENHEISER: Objection.

THE WITNESS: I don't understand that question.

BY MR. BRAZER:

Q. Sure. I imagine an ultrasound might be used because the landmark method is less precise at locating a vein than using an ultrasound.

MR. WICKENHEISER: Objection.

THE WITNESS: You are -- that's a declaration; it's not a question. Do you want to try again?

BY MR. BRAZER:

Q. I -- sure, sir. In your experience, would an ultrasound be used in lieu of the landmark method because it provides better visualization of the location of the subclavian vein or other veins in which you would attempt to establish central venous access?

MR. WICKENHEISER: Objection.

BY MR. BRAZER:

Q. You can answer.

A. I've never used an ultrasound.

Q. Okay.

A. I've never needed an ultrasound.

Q. Okay.

A. I've never missed the placement of the vein.

Q. Okay. All right. To your knowledge, is there an ultrasound machine in the execution chamber?

Courtesy of Time of Death Podcast by Beth Brazer

[redacted]

A. I have no idea.

Q. All right. Okay. How many times have you placed a central IV line?

A. A dozen or more.

Q. Okay. When was that?

A. When I was in the emergency room, primarily.

Q. Okay. So when was the last time you placed a central IV line?

A. Probably somewhere close to the last aspect of my tenure in the emergency room.

Q. Okay. So if I could have here, let me just refer back to your CV. So that would be around 2013; is that correct?

A. Yes, sir.

Q. Okay. And you stated that you never had any complications establishing a central IV line in those cases?

A. I didn't say that.

Q. Okay. Did you ever have complications in establishing a central IV line in those cases?

A. Just one time.

Q. Could you tell me what happened?

A. The guide wire wound up in the carotid vein, which is an undesirable placement, but you can reverse that fairly quickly.

Courtesy of Time of Death Podcast by Beth Bradem

[redacted]

Q. Okay. Under what circumstances would you perform a cut down procedure to obtain IV access?

A. I would not.

Q. You would not. Okay. You mentioned earlier that you had participated in executions prior to Mr. Oscar Smith's in Tennessee; is that correct?

A. Repeat your question, please?

Q. You mentioned earlier that you had participated in executions in Tennessee prior to Mr. Oscar Smith's in May of 2025?

A. I did not so indicate.

Q. Sir, did you participate in executions in Tennessee aside from Mr. Oscar Smith in --

A. I did not participate in executions.

Q. Okay. I understand. Dr. [redacted] were you the physician in the executions -- in any executions prior to Mr. Oscar Smith?

A. No.

Q. Dr. [redacted] did you participate in any execute -- sorry, my apologies. Dr. [redacted] were you the physician in any executions under the 2018 protocol?

A. No.

Q. Dr. [redacted] did you -- were you the physician in any execution aside from Mr. Oscar Smith's and Mr. Byron Black?

Courtesy of Nine of Death Podcast by Beth Braden

[redacted]

A. I've heard your question three times.
Q. Yes.
A. The answer is no.
Q. Okay. My apologies, sir. I think I misunderstood one of your prior answers. All right. Now let's turn to Page 19 of the protocol. Now if you see under section C, escort team, the paragraph marked 4, there is a redaction. Could you read the rest of the sentence for me, please?
A. "And the physician are stationed in the capital punishment garage."
Q. Okay. Is that an accurate description of where you are located the morning of an execution?
A. No.
Q. Okay. Could you elaborate, please?
A. Yes.
Q. Where are you located?
A. Okay. You asked me, can I elaborate? The answer is yes.
Q. Okay. Sir, could you please elaborate where you are located on the morning of an execution?
A. Yes. We were in a room adjacent to the execution chamber.
Q. Okay. Thank you. Now how long do you wait in that room on the morning of an execution?

Courtesy of Time of Death Podcast by Beth Bradon

[redacted]

A. An hour or more.

Q. Okay. How do you know if you were needed to establish a central IV line?

A. I assume they would come get me. It's never happened.

Q. Okay. How do you know when it's time for you to enter the execution chamber to perform the examination for death?

A. A member of the administration comes and gets me.

Q. Okay. And approximately how long does it take you to walk from where you are waiting to the execution chamber?

A. 15, 30 seconds.

Q. Okay. Do you bring any equipment with you into the execution chamber?

A. Stethoscope.

Q. A stethoscope. Is there any equipment in the chamber already that you use?

A. No.

Q. Okay. Do you have experience determining and declaring death in non-execution settings?

A. Yes.

Q. Okay. I would imagine that would be as an emergency room physician; is that correct?

Courtesy of Time of Death Podcast by Beth Brader

[redacted]

A. Yes.

Q. Are there other capacities in which you have declared death outside of an ER?

A. Yes.

Q. Could you elaborate on those, please?

A. I had an individual in the parking lot of an urgent care clinic who passed away and I certified that he was dead.

MR. BRAZER: Okay. Counsel, I'd like to show the witness copies of the lethal injection recorder checklist for Mr. Oscar Smith and Mr. Byron Black. Under the protective order agreement I think we'd have to have him sign the agreement form since he was present for some of these events. Do you have any objection to us showing him those documents?

MR. WICKENHEISER: No. But has the court reporter signed the -- court reporter needs to sign, too.

MR. BRAZER: Okay. Miss, do you have any problem with signing an agreement to a protective order, not to disclose certain documents?

THE REPORTER: No, that's fine.

MR. BRAZER: All right. Do you guys mind if we handle that at the end?

MR. WICKENHEISER: Sure.

Courtesy of Time of Death Podcast by Beth Brown

MR. BRAZER: That's fine. Okay. Can I have a copy of the lethal injection recorder checklist for both Mr. Smith and Mr. Black? All right. And let's mark these separately. Okay. We're going to enter this as Exhibit 6. This is the Lethal Injection Execution Recorder Checklist for Byron Black.

(Exhibit 6 was marked for identification.)

MR. BRAZER: And we'll need to have you sign an agreement to be bound by the protective order at the end of the deposition.

THE REPORTER: Sounds good.

MR. BRAZER: Thank you.

I think we gave the witness one, but I think we still need one. That's fine. I have copies here, too. And we are going to enter this as Exhibit 7. This is the Lethal Injection Execution Recorder Checklist for Mr. Oscar Smith. We'll also need you to sign the protective order at the end. No, I've got one. Thanks.

(Exhibit 7 was marked for identification.)

BY MR. BRAZER:

Q. All right. Dr. [redacted] referring first to the recorder checklist for Mr. Byron Black. I think if you turn to the second page, you will see about halfway down the document. It says, [redacted]

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[redacted]
[redacted]
to your knowledge; is that correct?

A. No, sir. [redacted]
So I don't know what you're referring to.

MR. WICKENHEISER: Are you -- are we looking at Oscar Smith or Byron Black?

MR. BRAZER: I'm looking at Byron Black. I'm sorry.

THE WITNESS: Clarify your questions, Counsel. Okay. Repeat your question.

BY MR. BRAZER:

Q. All right. If you turn to the second page of the Lethal Injection Recorder Checklist for Mr. Byron Black and you look about halfway down the page. You will see the words, [redacted] Do you see that?

A. Yes.

Q. All right. And do you see to the left of it, [redacted]

A. That's what it says.

Q. Okay. Great. To your knowledge, is that the time you entered the execution chamber?

A. I do not know.

Q. All right. Were you wearing a watch that day?

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A. Yes, but neither my watch nor my phone were calibrated to a clock in the execution chamber.

Q. Okay. Did you see a clock in the execution chamber that day?

A. After the procedure.

Q. After the procedure. All right. It then says right below that, [redacted] Do you see that?

A. Yes.

Q. Okay. [redacted]. Do you see that?

A. Yes.

Q. Okay. Is that the time that you pronounced death in Mr. Black's case?

A. I do not have an immediate recollection of the exact time.

Q. Okay. So you pronounced death and somebody marked the time, presumably?

A. Yes.

MR. BRAZER: Okay. All right. Could I have a copy of the Byron Black photo at 10:45 a.m.? Okay. We're going to mark this. Okay. I am going to enter this as Exhibit 8. I apologize. Miss, this is a photo of a deceased inmate.

(Exhibit 8 was marked for identification.)

Courtesy of Tide of Death Podcast by Beth Braden

[redacted]

BY MR. BRAZER:

Q. Okay. Dr. [redacted] do you see that this photo is stamped with a date?

A. Yes.

Q. Okay. And is that date August 5th, 2025?

A. That's what it says.

Q. At time 10:45?

A. That's what it says.

Q. Okay. Is this what Mr. Black looked like when you entered the execution chamber?

A. Yes.

Q. Do you notice any differences in the photograph from what he looked like when you entered the execution chamber?

A. No.

Q. Okay. When you entered to examine Mr. Black, did you notice any blood around his IV sites?

A. No.

MR. BRAZER: Okay. Could you bring those up please? Byron Black IV sites, one and two. Thank you.

THE REPORTER: Do you want to mark these?

MR. BRAZER: Yeah.

You can mark them together.

THE REPORTER: Okay.

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[redacted]

MR. WICKENHEISER: Those are both two photos?

MR. BRAZER: Yeah. We'll mark this as Exhibit 9. It is a photograph taken --

MS. KINGSBURY: Two photographs.

MR. BRAZER: Two photographs. Thank you, Sarah. Taken by the medical examiner's investigator of Mr. Byron Black's left and right arms and shows the IV sites. Yep.

(Exhibit 9 was marked for identification.)

BY MR. BRAZER:

Q. Now, Dr. [redacted] have you had an opportunity to examine the photographs?

A. Yes.

Q. Do you see blood at his I -- on his IV sites?

A. No.

Q. Okay. Could you tell me what that red substance is?

A. No, I cannot.

Q. Okay. Okay. Now, Dr. [redacted] can you walk me through step by step what you did to determine whether or not Mr. Black was dead after you entered the execution chamber?

A. Yes, I can.

Q. Okay. Thank you. Could you please do so?

A. Yes. I enter the room and I make a general

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[redacted]

observation of the body. Specifically, I look for chest movement, which would indicate respiration.

Q. Okay.

A. Second, I look at the eyes to determine if they're fixed and in the neutral position. Third, I look at the character of the eyes. Fourth, I look at the skin. Fifth, I listen with a stethoscope for heart sounds. Sixth, I listen for lung sounds. Seventh, I palpate the carotid artery. Eighth, I palpate the skin to determine if blanching and reperfusion occurs. I sometimes go back and listen again with the stethoscope for heart sounds. Finally, I stroke the eyelids with the tip of a glove or a tongue blade or whatever I have to determine if there is a corneal reflex.

Q. Okay. Did you check Mr. Black's pupillary response?

A. Didn't have a flashlight, but I did look at the eyes.

Q. Okay. And you mentioned that you checked the character of the eyes. Could you tell me what that means?

A. In death, the pupils are fixed and dilated in the neutral position, and they were, and they attend to acquire a slightly glassy look. It is very subtle and nuanced, but there's a glassy look to deceased bodies --

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to the eyes of deceased bodies.

Q. Okay. You mentioned you listened to it -- for a heartbeat easing a stethoscope; is that correct?

A. Yes.

Q. Did you have to lift the sheet on Mr. Black to do so? Was it already pulled down?

A. I -- I don't recall.

Q. Okay. Did you have to reposition or remove any of the straps over his chest?

A. No.

Q. No. Okay. All righty. Let's turn to the Lethal Injection Recorder Checklist for Mr. Oscar's.

A. Okay.

Q. All right. Now if you look on the second page, you will see about halfway down it says, [redacted] And next to that, it says, [redacted] Do you know if that's the time you entered the execution chamber?

A. I do not.

Q. Okay. Were you wearing a watch that day?

A. Yes.

Q. Okay. And there was still the clock on the wall?

A. Yes.

Q. Okay. And it says below that, [redacted]

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[redacted] And next to that, it says, [redacted] Is that correct?

A. Yes.

Q. Okay. To your knowledge --

A. Well, let me -- let me refine my answer. That is what it says.

Q. Okay. Do you know if that was the time you pronounced death?

A. I do not. I don't have a present recollection of that.

MR. BRAZER: Okay. All right. Could I have the photo of Mr. Oscar Smith at 10:50? Yes. Okay. Okay. This is Exhibit 10. It's a photo of Mr. Oscar Smith, who is deceased.

(Exhibit 10 was marked for identification.)

BY MR. BRAZER:

Q. All righty. Dr. [redacted] have you had an opportunity to examine the photograph?

A. Yes.

Q. Is this what Mr. Smith looked like when you entered the execution chamber?

A. Yes.

Q. Do you notice any differences in between this photograph and what you observed on that day?

A. No.

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[redacted]

Q. Okay. Same question. Did you notice any blood around Mr. Smith's IV sites when you examined him that day?

A. No.

Q. All right.

THE REPORTER: Go ahead with that one.

MR. BRAZER: Can I have Oscar's IV sites, please?

THE REPORTER: Yes.

MR. BRAZER: Okay. Can enter this.

THE REPORTER: You want to enter them both together?

MR. BRAZER: Yeah, let's just do that.

THE REPORTER: Thank you.

MR. BRAZER: All right. We'll mark this as Exhibit 11. It is two photographs of Mr. Oscar Smith's IV sites.

(Exhibit 11 was marked for identification.)

BY MR. BRAZER:

Q. All right. Dr. [redacted] have you had an opportunity to examine these photographs?

A. Yes.

Q. Okay. Do you notice any blood around Mr. Smith's IV sites?

A. There -- refine your question, Counsel.

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[redacted]

Q. Dr. [redacted] do you notice any substance around Mr. Smith's IV sites that appears to be blood in your opinion?

A. Around the IV sites?

Q. Yes.

A. Refine your question, Counselor.

Q. Around -- pardon me. I am not a doctor, and so my medical terminology might be lacking. Around where the intravenous catheter is inserted into the person's skin.

A. Around specifically?

Q. Okay. Within a couple inches in diameter around that site?

A. There is a red substance --

Q. Okay.

A. -- in the IV line. I cannot ascertain whether or not it's blood. Even if it were, it is of no clinical medical pathophysiological significance. And the same can be said for the IV lines of Mr. Black that you showed me a few minutes ago.

Q. Okay.

A. I cannot ascertain one way or the other if it's blood. Even if it is, it is of no significance. It is not "around the IV site." What -- the best I see appears to be potentially within the IV lines, assuming

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[redacted]

that it's blood.

Q. Understood. Thank you. Did you follow the same procedure for determining death in Mr. Smith's case as you did for Mr. Black?

A. Yes.

Q. Okay. Any differences whatsoever?

A. Not of significance, no.

Q. Okay. Is this the same procedure you always follow when determining whether a patient has died?

A. Yes.

Q. Okay. Dr. [redacted] as a physician, have you had much experience with EKGs?

A. Yes.

Q. Okay. How many do you think you've read over the course of your career?

A. Hundreds.

Q. Hundreds. As I understand it, EKGs typically display a patient's cardiac electrical activity live on a monitor or -- and/or print the EKG recording out on a strip of paper; is that correct?

A. Yes.

Q. Okay. Older EKGs might only print the recording on a piece of paper and might not have a monitor; is that correct?

A. Yes.

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[redacted]

MR. WICKENHEISER: Objection --
MR. BRAZER: To the form?
MR. WICKENHEISER: You can answer.
MR. BRAZER: To the form of the question? Okay.
THE WITNESS: Yes.
BY MR. BRAZER:
Q. Okay. Now, when you're taking an EKG recording, once you have the leads all set up, I assume you just press a button and start recording?
A. Yes.
Q. Okay. Assuming the person operating the device is paying attention, how soon after they started the recording would they notice whether or not the EKG strip is printing out of the machine?
MR. WICKENHEISER: Objection.
MR. BRAZER: You can answer.
THE WITNESS: However long it takes the printer to function.
MR. BRAZER: Okay.
THE WITNESS: Seconds.
MR. BRAZER: Seconds. Okay. Okay. I'd like to show you a partial EKG strip now. Can I please have the EKG strip? Right. And let's give -- and let's mark it, please. We are going to mark this as

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[redacted]

Exhibit 12.

(Exhibit 12 was marked for identification.)

BY MR. BRAZER:

Q. Dr. [redacted] have you had an opportunity to examine this photograph?

A. Yes.

Q. Okay. Could you tell me what type of rhythm -- cardiac rhythm is shown here on this EKG strip?

MR. WICKENHEISER: Objection. He's not an expert and he's not been tendered as an expert. He's a factual witness. He can answer.

MR. BRAZER: Yeah.

MR. WICKENHEISER: But I want that on the record.

MR. BRAZER: That's fine.

MR. WICKENHEISER: He's not been tendered as an expert.

MR. BRAZER: That's fine.

I'll just also note for the record that, you know, we are eliciting opinion testimony -- I mean, eliciting testimony as a fact witness. There was an EKG machine involved with the protocol, and my understanding of Tennessee Code Annotated 24-7-115 is that as a -- the treating physician he's entitled to render opinion testimony relevant to his

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[redacted]

treatment as the fact witness in this case.

MR. WICKENHEISER: I -- I'm going to maintain the objection.

MR. BRAZER: That's totally fine.

MR. WICKENHEISER: There's no evidence he saw this exact portion of the EKG results. And so I'm --

MR. BRAZER: Understood.

MR. WICKENHEISER: -- going to maintain the objection.

MR. BRAZER: Understood. Dr. [redacted] could you answer the question?

THE WITNESS: No.

MR. BRAZER: You --

THE WITNESS: Your question is premised on whether or not I'm a treating physician. I'm not a treating physician in this case.

BY MR. BRAZER:

Q. All right. Dr. [redacted] notwithstanding that, could you please tell me what rhythm you think that is shown on that EKG strip?

A. This appears to be a sinus rhythm with an intraventricular block.

Q. Okay. Could you explain to me what that means, please?

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[redacted]

A. A sinus rhythm means that there's a P wave preceding the QRS wave, but the QRS wave is abnormal. It is significantly broadened, which indicates impaired conduction through the intraventricular bundle.

Q. Okay. And what exactly does that last part mean about obstruction in the intraventricular bundle? Apologies. I'm not super read up on all the medical terminology.

A. Is there a question there?

Q. Yes. Could you please explain further what you meant by that last bit about the blockage?

A. The widened QRS signifies impaired electric transmission through the intraventricular bundle.

Q. Okay. But you would otherwise describe this as a sinus rhythm; is that correct?

A. Yes.

Q. Okay. Is the term often used normal sinus rhythm or is that different from sinus rhythm?

MR. WICKENHEISER: Object to the form. You can answer.

THE WITNESS: I'm not sure I understand the question. Please repeat your question.

BY MR. BRAZER:

Q. Is there a difference between the terms normal sinus rhythm and sinus rhythm?

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[redacted]

A. Yes.

Q. Can you explain to me what that difference is?

A. A sinus rhythm indicates that the sinoatrial node, indicated by an elevation of a P wave anterior to the QRS wave, meaning that the electric signal originates in the sinoatrial node. Normal sinus rhythm implies certain mathematical relationships between the P -- P wave, QRS wave, and the subsequent ST wave.

Q. Okay. Is a normal sinus rhythm compatible with life?

MR. WICKENHEISER: Objection. Again, he's not an expert in this.

MR. BRAZER: Understood. Please answer the question.

THE WITNESS: Will you repeat your question, please?

BY MR. BRAZER:

Q. Sure. Is normal sinus rhythm compatible with life?

MR. WICKENHEISER: Same objection.

MR. BRAZER: You can answer.

THE WITNESS: I have no idea what that means. Normal, healthy people have a normal sinus rhythm.

BY MR. BRAZER:

Q. Thank you. Do normal healthy people have

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[redacted]

sinus rhythm generally?

A. Yes.

Q. Thank you. If you saw this rhythm on an EKG strip --

MR. WICKENHEISER: Just -- sorry. Just --

MR. BRAZER: Yeah.

MR. WICKENHEISER: Can we agree that my objection is going to be over all this, the objection about him not being a expert witness.

MR. BRAZER: That's totally fine.

MR. WICKENHEISER: Perfect. Thank you.

BY MR. BRAZER:

Q. If you saw this rhythm on an EKG for a patient, would you think that patient's cardiac function had ceased irreversibly?

MR. WICKENHEISER: I'm also going to object to the form.

MR. BRAZER: Understood.

THE WITNESS: You do not determine perfusion based on the rhythm.

BY MR. BRAZER:

Q. Okay. Is it correct to say that an EKG rhythm is one of the clinical indicators that you might use to determine whether or not their circulatory function has ceased irreversibly?

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[redacted]

A. It is a piece of the puzzle.
Q. Okay. Was there an EKG machine in the execution chamber when you determined death for Mr. Black?
A. I don't recall seeing it.
Q. Was there an EKG machine in the execution chamber when you determined death for Mr. Oscar Smith?
A. I don't recall seeing it.
Q. Okay. Were you aware that Mr. Black was being monitored by an EKG machine?
A. Yes.
Q. Were you aware that Mr. Smith was being monitored by an EKG machine?
A. No.
Q. No. Did you not see leads on Mr. Smith's chest when you examined him?
A. Not that I recall.
MR. BRAZER: Okay. Could I please have the Oscar Smith exhibit, the EKG leads?
THE REPORTER: Do you need Black?
MR. BRAZER: No, just Smith.
THE REPORTER: Okay.
MR. BRAZER: I am going to mark this as Exhibit 13. Shows the deceased body of Mr. Oscar Smith.

Courtesy of Time of Death Podcast by Seth Braden

[redacted]

(Exhibit 13 was marked for identification.)

BY MR. BRAZER:

Q. Dr. [redacted] have you had an opportunity to examine the photograph?

A. Yes.

Q. Okay. Does this appear to be the body of Mr. Oscar Smith?

A. I can't tell you that.

Q. Okay. Dr. [redacted] do you see the date on the photograph?

A. Yes.

Q. What is that date?

A. 5/22/25.

Q. Okay. Was that the day Mr. Oscar Smith was executed?

A. The records will say -- will say what the records say.

Q. Okay. The -- well, the records will reflect that was the day Mr. Smith was executed.

MR. WICKENHEISER: Objection.

BY MR. BRAZER:

Q. Dr. [redacted] do you see anything on the body of the person in this photograph that resembles an EKG lead?

A. Yes.

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[redacted]

MR. BRAZER: Okay. Thank you. All right. I'd like to show you another photograph. Could I please have Byron's EKG?

MR. WICKENHEISER: Drew, are you going to be like -- I don't want to interrupt in the middle.

MR. BRAZER: Sure.

MR. WICKENHEISER: But I would like a break in --

MR. BRAZER: Yeah.

MR. WICKENHEISER: -- a little bit, if you all will be -- we --

MR. BRAZER: Yeah. Dr. [redacted] would you like to take a break?

THE WITNESS: I'm fine.

MR. BRAZER: Okay.

MR. WICKENHEISER: I just would like to use the restroom --

MR. BRAZER: Absolutely.

MR. WICKENHEISER: -- in a little bit. If -- we can finish this section. Whenever you're done.

MR. BRAZER: Let's -- I have a few more questions.

MR. WICKENHEISER: Yeah. Perfect.

MR. BRAZER: And then we can take a break.

MR. WICKENHEISER: Thank you.

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[redacted]

MR. BRAZER: Appreciate that. Can I have the EKG strip?

THE REPORTER: Talking about this one?

MR. BRAZER: Yes.

THE REPORTER: Okay.

MR. BRAZER: Okay. Thanks. All right. Let's mark this. All right. We're going to mark this as Exhibit 14. It is the EKG strip of Mr. Byron Black.

(Exhibit 14 was marked for identification.)

BY MR. BRAZER:

Q. All right. Okay. Dr. [redacted] could you please compare the EKG recording you see in this photograph with the recording of the photo I previously showed you? If you need it, there you go. And please let me know when you've had an opportunity to do so.

A. Sure. Go ahead.

Q. Okay. Does the EKG recording in the photo I just provided to you look the same as the EKG recording in the previous photo that we showed you?

MR. WICKENHEISER: Object to the form and object to the expert testimony there.

THE WITNESS: The scale of the two EKGs are different.

BY MR. BRAZER:

Q. Okay. The scale of the photograph is

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[redacted]

different?

A. Yes. You're referring --

Q. Is that your watch?

A. I don't think so.

Q. I think it might be.

A. It might be. I don't know. Yeah, it is. Yeah. Repeat your question.

Q. Do these two EKG recordings appear to be the same?

A. One -- the scale is wrong on one of them.

Q. Okay. The scale of the photograph, you mean?

A. Yes.

Q. Okay. All right. I will note for the record that the first EKG recording photograph is simply cropped from this latter one, but I can handle that at a later time. Dr. [redacted] are you able to determine from the label at the end of the EKG strip who this EKG strip belongs to?

A. The name is Byron Black.

Q. Okay. And are you able to determine from that label what day this EKG was recorded?

A. Let's see. The label says or appears to say 8/5/2025.

Q. And can you determine, I believe it's in the same section, what time this EKG strip was printed?

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A. The print time and date appear to be 10:44:54, 8/5/25.

Q. Okay. And August 5, 2025 was the day of Mr. Byron Black's execution; is that correct?

A. The record will show what it shows.

Q. Okay. Okay. If you'll refer back to the lethal injection recorder checklist for Mr. Byron Black that I gave you a few minutes ago. All right. It is again on the second page. This says here that [redacted] I believe you answered earlier that you did not recall what time exactly you pronounced death in Mr. Byron Black's case; is that correct?

A. Yes.

Q. Okay. It seems to me that [redacted] is about [redacted] after 10:43. Is that your understanding as well?

A. Mathematically, that is correct, sir. However, in reality, there is no way to correlate what appears on this sheet with various photographs taken by someone else's camera. It is also impossible to correlate what it says on this sheet with the EKG recording, unless all of these cameras and timing devices and clocks were set together. Now, I know what's going on and you're -- the implication is I

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[redacted]

declared somebody dead when he was still alive, and that's impossible.

Q. Could you tell me why it's impossible?

A. Yes. Because I'm familiar with how to determine whether or not a patient is deceased. The steps that I've outlined indicate -- indicate the permanent and irreversible cessation of physiologic activity. If there had been a pulse, I'd have found it.

Q. Okay.

A. If the heart was beating, I'd have heard it.

Q. Okay.

A. If the lungs were working, I'd have heard that.

Q. Okay. You mentioned that it's impossible to correlate all of the various time codes between the camera and the EKG strip and even the clock on the wall; is that a fair description?

A. No, I did not say that.

Q. Okay. What it -- can you tell me what you meant then?

A. What I mean is, if you're going to attach specificity to these different times, you have to set all of the times together even within seconds, because if one is slow and the other is fast, you have a significant gap of time that is inconsistent with the

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[redacted]

actual event. There are no seconds recorded on this sheet; okay? I do not know who took these photographs, but there's no seconds recorded on them. And then finally, I don't know how or when the EKG machine was calibrated to the exact time. So unless all of these things are together, you cannot pinpoint with any specificity at all what took place when, other than within a few minutes time.

Q. In an execution where the relative timing of events is specifically in dispute, it would be important to calibrate all of the timing instruments, would it not?

MR. WICKENHEISER: Object to the form and object to him giving expert testimony about how execution should be. You can answer.

THE WITNESS: Repeat that question again.

BY MR. BRAZER:

Q. In an execution where the relative timing of all of the events is in dispute, it might be important to make sure that all of the timing instruments are synced together properly.

MR. WICKENHEISER: Same objection.

MR. BRAZER: Would you agree?

THE WITNESS: It might be.

BY MR. BRAZER:

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[redacted]

Q. Okay. Dr. [redacted] at the top of the EKG strip with the printed label, do you see the words continual real time?

A. Yes.

Q. Okay. Correct me if I'm wrong. That means that the EKG strip is being printed contemporaneously with the recording of Mr. Black's electrical activity or thereabouts?

MR. WICKENHEISER: I'm going to object --

MR. BRAZER: Sorry.

MR. WICKENHEISER: -- object to the form.

MR. BRAZER: You can answer.

THE WITNESS: I have no idea how the EKG prints in relation to the recording signal.

BY MR. BRAZER:

Q. Okay. Normally, if you had an EKGs that was printing out a strip and you saw the words continual real time, what would that mean to you?

A. Nothing.

MR. WICKENHEISER: Object to the form.

THE WITNESS: Sorry.

MR. BRAZER: You can answer.

THE WITNESS: Nothing.

BY MR. BRAZER:

Q. It would mean nothing to you?

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[redacted]

A. First of all, I'm not familiar with this particular EKG machine. Second, I did not read the instructor's or operator's manual with respect to significance of those -- of that phrase. So I don't have any idea what it means.

Q. Okay. Have you seen this EKG strip before today, Dr. [redacted]

A. I can't testify one way or the other that I have.

Q. Can you elaborate on that, please?

MR. WICKENHEISER: I -- I'm going to object to the extent that it --

MR. BRAZER: Sure. To the extent that it involves any conversations with your attorneys.

THE WITNESS: You have printed out an EKG document. Whether or not I've seen the original, which is the question that you're trying to ask, I can't assert that the original or that this is a true and fair representation of the original. I didn't take this picture.

BY MR. BRAZER:

Q. Okay. And just to clarify an earlier answer, did you refer to an EKG when declaring death for Mr. Byron Black?

A. No.

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[redacted]

Q. Okay. Did you refer to an EKG when declaring death for Mr. Oscar Smith?

A. No.

Q. Okay. Have you ever seen an EKG strip for Mr. Oscar Smith?

MR. WICKENHEISER: Objection to extent that --

MR. BRAZER: To the extent that it implicates conversations with --

THE WITNESS: Ever seen, I cannot answer that question. I have no idea whether or not I saw Oscar Smith in a medical clinic or an emergency room elsewhere.

BY MR. BRAZER:

Q. Have you ever seen an EKG strip for Mr. Oscar Smith after or on May 22nd, 2025?

MR. WICKENHEISER: Same objection as before.

MR. BRAZER: Understood. You can answer.

THE WITNESS: Oscar Smith died in May 22, 2025. How would there be an EKG of him after that point?

BY MR. BRAZER:

Q. There would've been an -- I asked whether or not -- I apologize for not being clear in my question. Whether or not you would have seen an EKG strip of Mr. Oscar Smith taken on May 22, 2025 --

A. I can't answer that question.

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[redacted]

Q. -- on or after?

A. Okay. You can't take an EKG after a person is dead.

Q. Sir, I know that. I'm trying to ask whether or not --

A. Okay. Then ask any questions appropriately. I'll be glad to answer them. Just ask a decent question. Go ahead.

MR. WICKENHEISER: Can I use the restroom? Maybe now would be a great time to take a break?

MR. BRAZER: Let's take a break. Let's take a break.

MR. WICKENHEISER: Yeah. All right.

MR. BRAZER: All right.

MR. WICKENHEISER: Thanks.

THE REPORTER: We are off the record.

(Off the record.)

THE REPORTER: Okay. We're back on the record.

MR. BRAZER: Okay.

BY MR. BRAZER:

Q. Dr. [redacted] I think earlier you mentioned that a kit is used to establish a central line. Could you explain to me what that means?

A. A kit comes in a sealed sterile package. On the exterior of that package are printed a list of the

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[redacted]

inventory of the kit.

Q. Okay. And what is typically in one of those kits?

A. Well, let's see. There'll be a drape. There'll be prep brushes. There'll be iodine solution. There'll be lidocaine. There'll be probably two syringes. There'll be one needle for lidocaine, one needle for introducing the guide wire. There'll be a three-lumen catheter. There'll be suture. There may be some four-by-four gauze, and that's -- that's the essence of it.

Q. Okay. Did you see a central line kit at the prison when you were there for Mr. Byron Black's execution?

A. To the best of my memory, in both cases, they put the kit in my hands while I was waiting.

Q. Okay. You were holding it in the waiting area?

A. Yes.

Q. Okay. You mentioned earlier that you have a contract with TDOC to serve as a physician in these executions; is that correct?

A. No, sir.

Q. No?

A. I said I was a contracted employee.

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[redacted]

Q. You were a contracted employee?
A. Yes.
Q. Okay. Is there a physical contract?
A. No.
Q. No? Okay. Just want to clarify something you said earlier. Were you ever an employee with Centurion?
A. We've covered that.
Q. I'm just clarifying, sir.
A. Yes, I was.
Q. You were? Okay. And you no longer are, correct?
A. That's correct.
Q. Okay. Can you tell me why? Or please tell me why.
A. Well, it's a long, convoluted, stupid story, but I'll tell you. We had an individual at Turney Center who was transgender, and he came to me and said, when do I get my surgery? And I said, let me look into this. And so while I was signing charts at the records room, I was engaged in a casual conversation with the clerks, and we were talking about the problem of transgender inmates and what to do with them and so forth and so on.

And I am told, and on information and belief, the prison psychiatrist walked through the room and

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[redacted]

overheard part of this conversation, during which I mentioned that a transgender woman, being a biological male, had impregnated two women in the women's prisons in Connecticut, and we were talking about the ramifications of that.

And I'm told, on information and belief, that this psychiatrist, whose name I do not know, has a child who's either transgender or homosexual or something, and she got offended, and she filed a complaint. And when they called me, we discussed it, and I said, basically, I said what I said. I stand by what I said. And that's the end of that. And we decided to part company at that time.

Q. Okay. And by part company, you mean you resigned?

A. I resigned or they let me go. That's -- we parted company.

Q. Okay.

A. I don't recall specifically.

Q. Okay. Circling back to IV lines, do you have privileges to set a central IV line in a hospital setting?

A. We've talked about hospital privileges.

Q. I'm just -- and your answer was no, correct?

A. That's correct.

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[redacted]

Q. Okay. All right. As an attorney, were you ever subject to discipline either by an employer, the bar, or a court, for any reason?

A. No, sir.

Q. Okay. As a medical practitioner, have you ever been subject to discipline?

A. No, sir.

Q. Okay. And that includes by an employer, licensing authority, professional authority?

A. Well, you'd have to define discipline. As I indicated to you --

Q. Uh-huh.

A. -- Centurion and I parted company.

Q. I see. Okay. Have you ever been named as a defendant in a lawsuit?

A. Yes.

Q. Okay. Could you tell me what case that was?

A. I could not. But I can get you that information.

Q. Okay.

A. Wait a minute. Wait a minute. It's filed in Dyer County. It's Sherrod v. Achieve Medical.

Q. Okay. Are you aware of any other cases in which you were a named defendant in a lawsuit?

A. Well, there's a technical answer to that, and

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[redacted]

the answer is yes and no.

Q. Okay. You are aware, but you don't know the names; is that correct?

A. No, I am aware, and I know the names.

Q. Okay. Could you please tell me the names --

A. Sure.

Q. -- of the lawsuits?

A. Blackwell v. UT. Now, here's the mystery. The mystery was that I was named in the litigation but never served.

Q. Okay.

A. So I was not a party. So if the question is, have you ever been a party, the answer in that litigation is no. Have I ever been named is a different question.

Q. Okay. Are you familiar with the case of Dowell v. Kent out of the Western District of Tennessee?

A. No, sir.

Q. Okay. Would it help if I clarify that this is a Section 1983 suit wherein a prisoner at Northwest Correctional Facility accused medical staff of medical negligence? Does that ring a bell at all?

A. [redacted]?

Q. I believe that's his name, yes.

A. I think that's a civil rights suit.

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[redacted]

Q. Yes. That's a Section 1983 suit. Are you aware if you were named as a defendant in that case?

A. I think that is correct, yes.

Q. Okay. Have you ever been terminated from a provider network?

A. Provider network?

Q. Yes.

A. Meaning an insurance plan or HMO?

Q. That's correct.

A. The answer is no.

Q. Okay. You mentioned earlier the case -- a case called Blackwell?

A. Blackwell.

Q. Could you tell me what court that was in, please?

A. The -- probably the Circuit Court of Tipton County.

Q. Okay. Thank you.

MR. BRAZER: All right. I think that's just about it. Could we take a short break?

MR. WICKENHEISER: Yeah, sure. Of course.

MR. BRAZER: Thank you. Thank you, Dr. [redacted]

THE WITNESS: Uh-huh.

(Off the record.)

THE REPORTER: We're back on the record.

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[redacted]

BY MR. BRAZER:

Q. Dr. [redacted] I believe you said earlier that you have a contract with TDOC, but you don't have a physical contract; is that correct?

A. That's correct.

Q. Okay. Could you describe the terms of your contract?

A. They contact me when they have an execution scheduled. I meet with the appropriate TDOC administrators. I declare the inmate dead, and then I go home.

Q. Okay. And I believe you answered earlier that you are compensated for your services?

A. Yes.

Q. Okay. Are you paid $3,000 per execution?

MR. WICKENHEISER: Objection.

MR. BRAZER: Are you instructing him not to answer?

MR. WICKENHEISER: No.

MR. BRAZER: Okay.

THE WITNESS: Yes.

BY MR. BRAZER:

Q. Yes? Okay. Do you receive a W-4 from TDOC?

A. I -- I receive some sort of IRS document. I don't know if it's W-4 or 1099 or W-2.

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[redacted]

Q. Okay. But you report your compensation on your --

A. Yes.

Q. -- taxes? Okay. We were looking at exhibits that show photographs that showed Mr. Byron Black and Mr. Oscar Smith's IV sites. These photographs.

A. Thank you.

Q. Okay. I believe you answered earlier that, just from the basis of this photograph, you can see that there's a red substance there, but you can't identify whether or not that's blood --

A. That is correct.

Q. -- is that correct?

A. Uh-huh.

Q. Okay. What, other than blood, could that substance be?

A. Could be prep fluid. But again, when you -- when you use the phrase, do you see blood, there is an insignificant amount of red, whatever this is. And it may be -- well be blood, but there's no blood dripping from the arm, and there's no --

Q. Okay.

A. -- catastrophic injury there.

Q. Okay. And there are four photographs. Is that your opinion relative to each of these photographs?

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[redacted]

A. Well, to repeat --
Q. Sure.
A. -- there is an insignificant amount of a red-colored substance. I will assume for the sake of argument that it's blood.
Q. Uh-huh.
A. But it's insignificant.
Q. Okay. We were looking at your resume earlier and discussing your -- the medical director positions you hold for various entities.
A. Yes.
Q. Are all these entities in Tennessee?
A. Yes.
Q. Okay.
A. Now, I beg your pardon.
Q. Sure.
A. A minute ago there you asked me about litigation. There is another piece of litigation, Leslie Johnson [sic] v. Centurion, et al. It's also a Section 1983 case, and I didn't recall that when you asked me earlier.
Q. Okay. Well, thank you for sharing it now. Is that ongoing litigation?
A. Yes.
Q. Okay. Okay. While we're clarifying things, I

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[redacted]

believe I asked earlier whether or not you had ever been terminated from a provider network. I believe you asked whether or not I meant an insurance network by that question.

A. Uh-huh.

Q. Have you ever been terminated from Medicaid?

A. No.

Q. Okay. Medicare?

A. No.

Q. Okay. All right. Circling back, then, to the medical director positions on your CV. You'll have to bear with me for a moment. I believe you listed earlier which positions you no longer hold. For any of those positions, were you let go or terminated?

A. Let's see. Avalon Hospice.

Q. Okay.

A. Which was Gentiva at the time. That was this year.

Q. Okay.

A. And Gallaway Nursing Home.

Q. Okay. And can you describe the event -- or the reasons for you being terminated from those positions?

A. I don't know why Gallaway did.

Q. Okay.

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[redacted]

A. Pardon me. I don't know why Avalon, also known as Gentiva, did.

Q. Okay.

A. They didn't tell me.

Q. All right.

A. And for Gallaway, there was an interviewee who came, and she was talking to me about applying for the position, and I dissuaded her because the nursing home was not up to appropriate standards. That got back to the nursing home director, and she wasn't happy, so we parted company.

Q. Okay.

MR. BRAZER: All right. I think those are all of our questions. Oh, sorry.

BY MR. BRAZER:

Q. What court is Johnson v. Centurion? Do you know?

A. I do not know.

Q. Okay.

A. I'm represented by Megan Culver.

Q. Okay.

A. And I don't know what firm she's with, you know. So I can't -- I couldn't tell you. She could tell you.

MR. BRAZER: Okay. All right. I think that

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[redacted]

concludes today's deposition.

MR. WICKENHEISER: We have some questions.

MR. BRAZER: Of course. Yes.

MR. WICKENHEISER: Do you think you could hand me the EKG? Or could you grab the EKG?

MR. BRAZER: Sure.

CROSS-EXAMINATION

BY MR. WICKENHEISER:

Q. Dr. [redacted] you've -- we've discussed a lot about EKG data during this deposition, and now that you've -- I believe you testified that you have -- well, I guess I should say, you've now seen this EKG data from Byron Black. Could you explain whether or not this would impact your decision on whether or not to declare death?

A. You're asking me about the significance of an EKG in the process of declaring death?

Q. Yes, sir.

A. Okay. The EKG is a small piece of the puzzle. It is not the definitive piece of the puzzle.

Q. Okay. What else do you look at?

A. Well, again, I look at -- when you -- when you assess an individual who is presumably dead, you watch for respiration, because you can only go so long without respiration. You -- you check for a pulse, and a pulse

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[redacted]

is different from EKG. And people watch television and they think that asystole means death. It does not, necessarily. Your machine can be malfunctioning. The leads can be off. Asystole means the absence of detectable electro cardiac activity.

But a rhythm such as this, a sinus rhythm with a bundle branch block, simply indicates that an electrical signal is being propagated from the SA to the AV nodes. It does not indicate the one thing you need to know about the heart, which is whether or not it's pumping blood. And so you can have a signal, which shows up on the EKG, but if the heart is not pumping, you're dead.

Q. So how would you test whether the heart is pumping blood?

A. I can listen. You can hear the valves snapping. You can hear the opening and the closing of the atrioventricular valves, and you can hear the mitral valve as well.

So you -- you can hear all these different valves opening and closing and snapping. You can sometimes hear the flow of blood through the heart. If that's not happening, you check for a pulse. If you have neither audible heart sounds nor a pulse, you don't have a perfusing rhythm.

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[redacted]

Q. Did you do that -- did you perform those tests for Byron Black?

A. Yes. Multiple times.

Q. Did you perform those tests for Oscar Smith?

A. Yes.

Q. Is there any chance that those gentlemen were still alive after you declared death?

A. None. Zero.

MR. WICKENHEISER: Thank you.

MR. BRAZER: Brief follow up.

THE WITNESS: Sure.

REDIRECT EXAMINATION

BY MR. BRAZER:

Q. Dr. [redacted] you mentioned that one of the reasons you could see electrical activity on an EKG strip even after a person has died is that the leads were off; am I understanding you correctly?

A. Repeat your question, please.

Q. I believe you testified just now that one of the reasons you might see electrical activity on an EKG strip, even after somebody might have died, is the leads, EKG leads, were off the body --

A. No, I didn't say that.

Q. Okay. Could you clarify what you meant?

A. When you are involved in making a

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[redacted]

determination of what's going on with a heart, there are multiple steps that you have to take. One, you have to check that your machine is giving you accurate information. If, in the midst of vigorous CPR, the leads come off and you show asystole, that's not a heart problem. That's a machine problem.

Q. Okay.

A. Okay? And then in the midst of ACLS, if you see electro cardiac activity, you don't stop and say, we got her back. You check for pulse. If you don't have pulse, if you don't have heart sounds, you don't have her back.

Q. Okay. When you examined Mr. Smith and Mr. Black, did you have -- see anything that would cause you to believe that the EKG leads were not properly placed or in contact with their skin?

A. No. The leads had to be -- in order to get a signal like this, the leads have to be in place.

Q. Okay. And, Dr. [redacted] is it typical in a medical setting to also use an echocardiogram to determine whether or not the heart is pumping?

MR. WICKENHEISER: Objection. He's not an expert in the case.

MR. BRAZER: Understood. Understood.

MR. WICKENHEISER: He can answer.

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[redacted]

THE WITNESS: No, it's not typical.

BY MR. BRAZER:

Q. It's not typical?

A. Well, I mean, I don't know what -- what it's typical in, in a hospital in Memphis, Tennessee, or New York City, but there are practical limitations about getting an echocardiogram to see if you have perfusion activity in the context of the emergency room. So when I practiced, we didn't need an echocardiogram to determine if the heart was pumping.

Q. Okay.

MR. WICKENHEISER: I have one more follow up, if you --

MR. BRAZER: Sure.

RECROSS-EXAMINATION

BY MR. WICKENHEISER:

Q. Mr. Brazer was just asking you about whether or not you could be seeing false readings in an EKG machine from leads not being properly placed. Is that the only reason why you might be getting readings on an EKG when someone has already died?

A. Well, to get the signal that you see on these EKG strips, the leads have to be connected.

Q. Is there any -- can you think of a reason why you would be getting this signal if this patient had

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[redacted]

already passed?

A. Yeah. That's called pulseless electrical activity. And again, one of the important points of advanced cardiac life support is, you don't stop when you see a rhythm. You stop when you get a pulse back, a perfusing pulse. It's manifested by heart sounds, palpable pulses, capillary reflex, and so forth and so on.

Now, you may have to have a cardiologist to determine what kind of ejection fraction you have. But in terms of determining if there is a pulse, that's the determinative question. Whether or not they have pulseless electrical activity has very little bearing on their death. They could have pulseless electrical activity for some time.

MR. WICKENHEISER: Thank you.

FURTHER DIRECT EXAMINATION

BY MR. BRAZER:

Q. So just to clarify, the main distinction vis-a-vis whether or not somebody is dead is whether or not their heart is contracting and thereby perfusing?

A. No.

Q. Okay --

A. Contracting is different from perfusing. You can have ventricular fibrillation, in which the heart

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[redacted]

muscle contracts, but it's not contracting effectively. The key concept is perfusion. You have to have perfusion, and you have to have coordinated activity of some type between the atria -- yeah, the -- the atria and the ventricles.

Q. Are there circumstances in which you could not hear a patient's pulse and still have perfusion?

A. Would be extraordinarily rare. Almost rare to the point of impossibility. I've never come across that. I've never heard of that. You would have -- well, again, the heart sounds are so distinct and so essential to recording perfusion that if you didn't have heart sounds, then you're not likely to have effective perfusion.

And then you check for pulse, and even a weak pulse is palpable to most people. And then you check for cap refill, which is the blanching and refilling of the tissues when you mash on it. You don't have those three things, you're not perfusing.

MR. BRAZER: Okay. I think that's it. Thank you, Dr. [redacted] for your time.

THE WITNESS: Yes, sir.

MR. BRAZER: We greatly appreciate it.

MR. WICKENHEISER: Thank you. We'll need you all to fill out the --

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[redacted]

MR. BRAZER: Yeah.

MR. WICKENHEISER: -- addendums or whatever they're called.

THE WITNESS: Is there a form I need to sign?

MR. WICKENHEISER: Yes, sir.

THE WITNESS: Okay.

THE REPORTER: This is all we have on protective orders --

(Deposition concluded at 2:52 p.m.)

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[redacted]

CERTIFICATION

I, CHLOE FRY, a Certified Shorthand Reporter, within and for the STATE OF TENNESSEE, do hereby certify:

That DR. [redacted] the witness whose examination is hereinbefore set forth, was first duly sworn in and that this transcript of said testimony is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 6TH day of NOVEMBER 2025.

Chloe Fry

CHLOE FRY

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